

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ERICKSON'S FLOORING & SUPPLY  
CO., INC.,

Plaintiff,

No. 04-CV-74990-DT

vs.

Hon. Gerald E. Rosen

BASIC COATINGS, INC., et al.,

Defendant.

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ORDER DISMISSING DEFENDANTS' PENDING  
JOINT MOTION TO DISMISS, WITHOUT PREJUDICE

At a session of said Court, held in  
the U.S. Courthouse, Detroit, Michigan  
on 2/10/06

PRESENT: Honorable Gerald E. Rosen  
United States District Judge

Defendants having filed a Fed. R. Civ. P. 12(b)(6) Joint Motion to Dismiss well in advance of the close of discovery in this matter; and the Court having determined that a fully developed record is necessary for adjudication of the issues raised in Defendants' motion; and being otherwise fully advised in the premises,

NOW, THEREFORE,

IT IS HEREBY ORDERED that Defendants' January 25, 2005 Joint Motion to Dismiss (Dkt. # 6) is denied, without prejudice to Defendants' right to seek relief

pursuant to Fed. R. Civ. P. 56 by re-filing their motion at the dispositive motion cutoff.

s/Gerald E. Rosen  
Gerald E. Rosen  
United States District Judge

Dated: February 13, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 13, 2006, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry  
Case Manager